

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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5 SEOUL SEMICONDUCTOR CO. LTD., :
6 et al., : 19-CV-06719 (MKB)
7 Plaintiffs, :
8 :
9 v. :
10 : 225 Cadman Plaza East
11 SATCO PRODUCTS, INC., : Brooklyn, New York
12 :
13 Defendant. : March 5, 2020
14 -----X

15 TRANSCRIPT OF CIVIL CAUSE FOR INITIAL CONFERENCE
16 BEFORE THE HONORABLE STEVEN L. TISCIONE
17 UNITED STATES MAGISTRATE JUDGE
18

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1 (Proceedings began at 1:39 p.m.)

2 THE COURT: So I apologize for the delay.
3 Unfortunately you walked in two minutes too late. I was
4 almost going to just do yours first and then we found the
5 other counsel in the earlier case.

6 MR. EISENBERG: We got a free show, Your Honor.

7 THE COURT: Yeah. So I did look at your letter
8 asking to relate the case to the earlier filed cases. I just
9 have a couple of questions. My colleagues and I have been
10 looking at it to see whether or not it makes sense to
11 consolidate the cases before one or really two judges:
12 district judge and magistrate judge. Is it correct that the
13 specific patents involved in the two cases are different but
14 they're related technology?

15 MR. EISENBERG: That's correct, Your Honor.

16 THE COURT: Okay. So then I guess my question is,
17 how much overlap is there in the two actions if we're dealing
18 with separate patents. I mean, there'll be like a knowledge
19 base overlap in the sense that, you know, you have to get up
20 to speed on the technology involved, but the specific patents
21 are different.

22 MR. EISENBERG: That is fair, Your Honor. The
23 specific patents are different. They go to relate -- so if I
24 could start with a little bit of background.

25 THE COURT: Sure.

1 MR. EISENBERG: The case is generally about light-
2 emitting diode chips and all the patents relate in some way to
3 either the chips themselves, the packages they go into, the
4 driver circuitry that helps them run and all of these tend to
5 go into lightbulbs and other lighting products used for
6 general lighting, say in your house.

7 The same things that improve chips, that make them
8 run, the core parts of the chip are similar in all the
9 patents. There's no specific overlap, there's none that are
10 so similar that I would say, you know, there's none that are
11 in the same family to the extent that the claims are nearly
12 identical which happens in some cases. But the core
13 understanding -- you know, if were to do a tutorial to go over
14 how a light-emitting diode works, how holes in electrons
15 combine to give off light and what that means.

16 THE COURT: Gotcha. So the background knowledge,
17 the -- would be useful in both cases even if the specific
18 patents would have to be analyzed separately.

19 MR. RASKIN: It's a little bit more than that, Your
20 Honor.

21 THE COURT: Okay.

22 MR. RASKIN: Because they're probably -- they're
23 likely overlapping accused products.

24 THE COURT: Okay.

25 MR. RASKIN: We haven't gotten that far yet in this

1 case.

2 THE COURT: So some of the products might be
3 infringing on more than one patent.

4 MR. RASKIN: That's correct. So we would need to
5 produce overlapping documents in both cases --

6 THE COURT: Gotcha.

7 MR. RASKIN: -- both with respect to technical --

8 THE COURT: Well, even if the cases --

9 MR. RASKIN: -- [indiscernible] --

10 THE COURT: -- aren't consolidated formally in the
11 sense that they're, you know, joined together you could still
12 informally have an agreement between you that you only have to
13 produce it once and it's effective for both cases.

14 MR. RASKIN: That's true, Your Honor.

15 THE COURT: You know, there's -- certainly it's the
16 same party, so, you know, if you want to informally have --
17 you know, you can even agree, if you want, to do depositions
18 that would be effective in both cases, even if they're not
19 formally consolidated and say, you know what, if we're doing a
20 30(b)(6) deposition let's do one for both cases. It might be
21 more efficient that way.

22 MR. RASKIN: Yeah, we've been working long --
23 together long enough to know that we're going to look for
24 every efficiency possible. But from the Court's standpoint --

25 THE COURT: Um-hum.

1 MR. RASKIN: -- because the technology is so closely
2 related to educate two sets of judges on similar technology
3 there might be overlapping issues on the Markman hearing, you
4 know, things like that.

5 THE COURT: Sure.

6 MR. RASKIN: That we thought that not only for the
7 parties, but for the Court as well it was more efficient.

8 THE COURT: So ordinarily with these kinds of
9 motions the relevant judges just look at the cases and say,
10 oh, it looks like there's overlap. We'll consolidate them.

11 I don't think looking at the two cases just on their
12 face because they do involve different patents, you know, the
13 judges in this instance would err on the side of
14 consolidating. So I think the best approach for you is if
15 you -- if you truly believe it would conserve resources, both
16 for yourself and for the Court to consolidate the cases would
17 be to submit a motion with a little bit more of an explanation
18 of the efficiencies in joining the cases and giving them
19 consolidated before a single judge because it's not
20 immediately obvious in the way that it often is in related
21 cases.

22 I'm fine with it, but I'm not the judge that will
23 end up getting those cases, so I'm not the one you have to
24 convince. So I would suggest filing, you know, a letter in
25 both cases explaining the efficiencies that you think would

1 ensue if the cases are consolidated and that might be, you
2 know, enough to kind of tip it over the edge.

3 MR. RASKIN: Okay. And I'm not sure this will
4 matter with regard to your suggestion, but to date we haven't
5 made a request for consolidation. And I'm not sure how you're
6 use -- how Your Honor is using that word, but we're at
7 present --

8 THE COURT: Well, you're relating the cases --

9 MR. RASKIN: -- have only asked for a reassignment.

10 THE COURT: Yeah, so you want to relate the case to
11 the other case so that it gets reassigned to the same judge.

12 MR. RASKIN: Yes, because we haven't had a formal
13 discussion about consolidation nor has our client, you know,
14 weighed in on that --

15 THE COURT: Yeah.

16 MR. RASKIN: -- issue either. And given the
17 complications we will --

18 THE COURT: I mean, consolidating the case at least
19 for purposes of discovery seems like it would make sense
20 instead of overlap --

21 MR. RASKIN: Yeah.

22 THE COURT: -- which is obviously easier to do if
23 it's all before the same judge.

24 MR. RASKIN: Right.

25 THE COURT: But obviously that's a decision you'd

1 have to make, even if it's not formally consolidated.

2 Like I said, you could still informally do a lot of
3 things to help, you know, keep things efficient by having
4 agreements where you can use documents for both cases, you
5 know, depositions for both cases, that kind of stuff.

6 MR. RASKIN: One of our concerns, and it's just more
7 of a procedural matter --

8 THE COURT: Um-hum.

9 MR. EISENBERG: -- is we actually in the sense of
10 full consolidation I think we would want -- not want because
11 of the number of issues, the number of patents, the number of
12 products. But we do want to make sure that as we do things
13 we're doing them in a way that takes care of the efficiencies
14 and overlapping them possible. But at the same time make sure
15 that when we accept dates, when we schedule we're doing it in
16 a way that doesn't create the kinds of conflicts that might
17 otherwise make administration of the two cases too difficult.

18 So that was one of the concerns that we had when
19 proposing our schedule to you, Your Honor, is that the form
20 sort of starts with the close of fact discovery and sets that
21 date, which I appreciate my thinking probably --

22 THE COURT: You know, it's funny because I just had
23 another initial conference in a patent yesterday and it
24 occurred to me that because patent cases have so many
25 additional and different deadlines and different things than a

1 typical civil case that I may need to actually go back and
2 change my form for initial conferences in patent cases
3 because, you know, you don't have things like the claim
4 construction and the Markman hearing and all of those things
5 that, you know, wouldn't be reflected on, you know, my
6 standard kind of discovery form.

7 MR. EISENBERG: Very much appreciate that, Your
8 Honor.

9 THE COURT: Yeah.

10 MR. EISENBERG: Because that's why we proposed sort
11 of the -- we had a joint proposal that went more similar to
12 what we tend to do in other courts.

13 THE COURT: Sure.

14 MR. EISENBERG: And then obviously we have --

15 THE COURT: This is a new thing for us. This is
16 part of a pilot program for the Court with the patent cases,
17 so, you know, only a certain number of us on the panel are
18 even in the pilot program. So not every judge takes patent
19 cases.

20 So you'll see -- you know, if you do enough cases
21 here you'll start to see the same judges over and over again
22 just because there are only a limited number of us that are in
23 the pilot for the patent cases. So it's something that has
24 become a little bit more clear as I've done.

25 You know, the first couple of patent cases I did,

1 you know, it didn't really come up for whatever reason. But
2 now that I've done more of them and I've gotten further along
3 in more of them I'm starting to see that I need to go back and
4 perhaps use a different form for the initial conference on the
5 patent cases otherwise the parties just end up using their own
6 stuff and --

7 MR. EISENBERG: Right.

8 THE COURT: Which is fine, too. It's not a big
9 deal.

10 So what I would suggest then is before I set any
11 discovery deadlines if you're going to try to have it before
12 another judge anyway I'd rather not set something that they'd
13 then have to change. So why don't you submit your -- you
14 know, you do it as a joint letter or whatever.

15 And the other thing I would suggest is file it as an
16 actual motion because if you file it as a letter oftentimes
17 things get kind of lost on the docket when it's just as a
18 letter. Eventually somebody will look at it. But if you want
19 quick action on something file it as a motion. An then, you
20 know, the judges will pay more attention to it and act on it.

21 MR. EISENBERG: Understood, Your Honor.

22 THE COURT: Do you want to say two weeks? Is that
23 enough time?

24 MR. RASKIN: Sure.

25 THE COURT: All right.

1 MR. EISENBERG: Two weeks for lawyers to agree on
2 something? Right? We can do that.

3 THE COURT: Well, you seem to have a collegial
4 relationship.

5 MR. EISENBERG: We very much do. Even the people
6 before us. I think they get along fine. They just weren't
7 seeing things eye to eye today.

8 THE COURT: I think they just have a difference of
9 opinion. You know, if people didn't have differences of
10 opinions on things there wouldn't be as many lawsuits.

11 MR. EISENBERG: And we would not have such nice
12 suits.

13 THE COURT: All right. So by March 19th you'll file
14 your, I guess, more extensive letter motion for consolidation
15 or for transferring the case.

16 MR. EISENBERG: We'll do it.

17 THE COURT: And then I'll hold off on putting on any
18 discovery deadlines until somebody makes a decision. Like I
19 said, I'm fine with it either way, but I'm not the one that
20 would be receiving the case. So I'm going to defer to my
21 colleagues who would be receiving the case in terms of whether
22 or not they agree. All right. So make sure you file it on
23 both cases.

24 MR. EISENBERG: Okay.

25 MR. RASKIN: Thank you, Your Honor.

1 MR. EISENBERG: That was all we had. Is there
2 anything else, Your Honor?

3 THE COURT: Did I actually get your appearances?

4 MR. EISENBERG: Oh, no. We never actually did that,
5 so I guess I can start there. Michael Eisenberg for the
6 plaintiffs from Holland & Knight.

7 MR. LAHAV: Etai Lahav for plaintiffs from
8 Radulescu, LLP.

9 THE COURT: I'm sorry, I missed that.

10 MR. LAHAV: Etai Lahav.

11 THE COURT: How do you spell that?

12 MR. LAHAV: E-T-A-I, last name L-A-H-A-V.

13 THE COURT: Thanks.

14 MR. LAHAV: Thank you.

15 MR. RASKIN: Josh Raskin from Greenberg Traurig on
16 behalf of the defendant.

17 MS. BOOKBINDER: And Julie Bookbinder from Greenberg
18 Traurig also for defendant.

19 THE COURT: All right. So I said March 19th,
20 correct?

21 MR. EISENBERG: Yes.

22 MR. RASKIN: Yes.

23 THE COURT: All right. So by March 19th the parties
24 will file a more robust letter motion for transfer of the case
25 and we'll go from there.

1 MR. EISENBERG: All right, great.

2 MR. RASKIN: Thank you, Your Honor.

3 MR. EISENBERG: Thank you, Your Honor.

4 (Proceedings concluded at 1:50 p.m.)

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1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

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8 Ruth Ann Hager, C.E.T.**D-641

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10 Dated: March 9, 2020
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